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10/030,315	01/10/2002	Satoshi Aramaki	Q66240	2230

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Sughrue Mion Zinn Macpeak & Seas  
2100 Pennsylvania Avenue N W  
Washington, DC 20037

EXAMINER

FIDEI, DAVID

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 08/05/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/030,315

Applicant(s)

ARAMAKI, SATOSHI

Examiner

David T. Fidei

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Drawings***

1. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 07/02/2003 have been approved by the examiner.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Said projections and said depressions has no antecedence basis.

***Claim Construction***

4. In analyzing applicant's invention as set out in the pending claims, the examiner sets forth the following to aid in understanding the application of the prior art herein. Claims are to be given their broadest reasonable during prosecution, see *In re Priest*, 582 F.2d 33, 37 199 USPQ 11, 15 (CCPA 1978), and limitations from the specification will not be read into the claims, see, e.g. *In re Prater*, 415 F.2d 1393, 1404-1405, 162 USPQ 541, 550-51 (CCPA 1969). Office personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023,1027-28 (Fed. Cir. 1997), see MPEP 2106.

Applicant sets forth their invention in claim 1 as a case having a containing part hinged to a lid part that has no specific article retaining content or features. This is broad enough to encompass any case so arranged. At least one pair of locking portions are recited to be disposed in areas "near" corners of both side faces. Nothing is described or disclosed regarding what parameters encompass "near" corners of side faces. Only does claim 2 provide definition to such areas. The term "undercut shape" in claim 6 is taken to imply a shape with a recess and a ridgeline is only a peak of the structure.

In claim 7 is not clear from the specification what can be considered a “deep” container portion. The examiner notes there are containers configured to hold credit cards, phone cards or similarly thin objects. Compared to that a VHS tape would be a “deep” container portion.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese document 57-174320. The aforesaid document page 3, lines 3-5 discloses the locking part equivalent to applicant's subject matter, see the International Preliminary Examination Report of 06 August 2001..

7. Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Ishitsuka (Patent no. 5,373,944). Figure 3 discloses a case having locking portions 11a, 11b adapted to engage with each other.

8. Claims 1-4, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese document 63-137748. A case is disclosed comprising a containment part 2 adapted to contain objects to be contained, a lid part generally indicated at 3 and connected to said containment part by a hinge part 1. The lid part is operable to be freely opened and closed. At least one pair of locking portions 10/11 being operable to be engaged with each other and disposed in areas near corners of both side faces of said opening of said containing part and an opening of said lid part.

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The locking portions extend along side faces of the containing part and said side faces of the lid part in a direction if a vertical axis of the case, the direction of the vertical axis corresponding to direction of opening of the case.

As to claim 2, the areas near the corners extend from the front face of the case along the side face having the aforementioned locking portions to a point that appears to be less than one fourth the width of each side face of the case, see figure 1.

As to claim 3, the locking portions 10/11 comprise a shape of a first depression 11 and first projection 10, and a shape of a second projection 10' and a second depression 11'.

As to claim 4 the locking projection comprise a depression, either of 11 or 11', and a projection, either 10, 10', adapted to be engaged with each other.

As to claim 6, the locking portions comprise and undercut shape and the ridgelines of the locking portions are rounded, claim 8.

With respect to claim 9, Japanese document 63-137746 discloses a case comprising a "deep" containment part 2 with an outer stepped portion shown by the lead line to numeral 9 (see fig. 1) having a thin wall thickness at an open edge of an opening of the containing part. A lid part generally indicated at 3 is provided with an inner stepped portion shown by the lead line to numeral 8' (see fig. 1). and connected to said containment part by a hinge part 1

### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese document 63-137746 in view of Ishitsuka (Patent no. 5,373,944). Japanese document 63-137746 discloses the claimed subject matter except for locking portions disposed at areas near corners at a front side and disposed at substantially middle areas of both side faces.

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Ishitsuka discloses a case having locking portions 11a, 11b constructed similar to portions 8a, 8b, that are provided on side faces near the front corner and middle portion of the case, see figure 3. It would have been obvious to one of ordinary skill in the art to modify the case of Japanese document 63-137746 by providing locking portions disposed at areas at substantially middle areas of both side faces as taught by Ishitsuka, in order to provide more locking surfaces through out the case that provides a more secure engagement.

### *Response to Arguments*

11. Applicant submits JP 57-174320 discloses locking projections that are formed along the length of the side portion of the case in a direction perpendicular to the opening direction of the case. While the locking portions 5, 5' are indeed formed as such, there is also a vertical component of these locking portions 5, 5' that form a thickness as shown in figure 3. Hence the locking portions do extent along side faces of container and the lid part in a direction of a vertical axis of the case corresponding to a direction of opening of the case.

The rejection under Jp 09-272583 is overcome by the amendment and is not maintained.


With respect to the rejection over the patent to Ishitsuka (Patent no. 5,373,944) applicant appears to be making the same argument as that made with reference to JP 57-174320. Since the locking portions 11a, 11b, 8a, 8b extend along a length of the side in which it is formed, applicant submits the rejection is invalid. However, even applicant's locking portions 6a, 6b extend along the length of the side of the case. All that is required of claim 1 is that the locking portions extent along side faces of container and the lid part in a direction of a vertical axis of the case corresponding to a direction of opening of the case. Which is clearly disclosed by Ishitsuka (Patent no. 5,373,944).

### *Conclusion*

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

  
David T. Fidei  
Primary Examiner  
Art Unit 3728

dtf  
August 4, 2003